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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,128	12/17/2001	Durward I. Farics, JR.	1322.0040C	4172

7590 12/21/2006
EPSTEIN, EDELL, SHAPIRO, FINNAN & LYTLE, LLC
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EXAMINER

WITCZAK, CATHERINE

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/21/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/016,128

Applicant(s)

FARIES, ET AL.

Examiner

Catherine N. Witczak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-23 and 51-62 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 17-23 and 51-62 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 17, 18, 19, 23, 51, 52, 53, 56, 57, 58, 59, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over IKEGAME et al. (US Patent No. 4,747,450) as modified by Shah et al (US 4,532,414) and Augustine et al (US 6,464,666).

Ikegame discloses a fluid cassette having adjacent tubes that direct fluid flow in reverse directions through an intermediate section. The inlet and outlet portions are configured so as to be capable of being secured to an intravenous fluid line. The engagement member at 15 assists manipulation of the cassette. See figs. 3, 6, 9, and 8.

Ikegame discloses the claimed invention except for the quantity of tubing used being based on providing a residence time for enabling the device to heat the fluid to a temperature in the range of 60° to 160° F. Shah et al disclose that it is known to vary the quantity of tubing used in order to provide a residence time for enabling the device to heat the fluid to a temperature in the range of 60° to 160° F (column 5, lines 10-17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Ikegame, by varying the quantity of tubing used in order control the residence time for a said fluid as taught by Shah et al, since such a modification would allow the system to heat the fluid to a temperature in the range of 60° to 160° F.

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Ikegame discloses the claimed invention except for the inlet and outlet terminals including a connector for connection to portion of an IV fluid line. Augustine et al disclose in Figure 3a that it is known to use a connector (50) for connection to portions of IV fluid lines to vent gases escaping from the fluid (column 5, lines 40-49). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Ikegame, by including a connector fluid connecting the terminals with a portion of an IV fluid line as taught by Augustine et al, since such a modification would provide a connector for venting gases escaping from the fluid.

2. Claims 20, 54, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikegame as modified by Shah et al and Augustine et al as applied to claims 17, 51, and 57 above, and further in view of Augustine et al (US 2001/0009610).

Ikegame as modified by Shah et al and Augustine et al ('666) discloses the claimed invention except for a conductive contact detectable by the warming device to indicate the presence of the cassette. Augustine et al teach that it is known to use a conductive contact detectable by the warming device to indicate the presence of the cassette in paragraphs 0028 and 0029. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system as taught by Ikegame as modified by Shah et al and Augustine et al ('666) with a conductive contact detectable by the warming device to indicate the presence of the cassette as taught by Augustine et al ('610), since such a modification would provide an on/off switch for using the warming device.

3. Claims 21, 22, 55, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over IKEGAME in view of FORD et al. (US Patent No. 5,245,693). Ikegame discloses the claimed invention except for a fitting receiving a temperature sensor to measure the fluid temperature including a thermally conductive member disposed in the fitting. Ford discloses a fitting 170 receiving a temperature sensor 130

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to measure the fluid temperature including a thermally conductive member disposed in the fitting (8:4-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings Ford of in the cassette of Ikegame in order to facilitate heating control of the heat exchanger.

Response to Arguments

Applicant's arguments with respect to claims 17-23 and 51-62 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

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mmmm 12/12/00

Kevin C. Sirmons

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